

REMARKS

Claims 14, 25, 28, 30 and 37 are pending. Claims 16 and 31-36 have been cancelled without prejudice or disclaimer. The above amendments are presented in the format described by the proposed revision to 37 CFR § 1.121, and as such, no marked-up copy is provided.

Claim 16 stands rejected under 35 USC § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim that which is considered the invention. However, as claim 16 has been cancelled, it is respectfully submitted that this particular rejection is now moot.

Claims 14, 16, 25, 28 and 30 stand rejected under 35 USC § 103(a) as allegedly being unpatentable over Hayes (U.S. Patent No. 6,210,764), alone or in view of Fukui et al. (U.S. Patent No. 5,100,930) or Azuma et al. (U.S. Patent No. 4,785,042). The Office Action asserts that the combination of references teaches each feature of the present claims. Applicants respectfully disagree.

For example, the Office Action states that “the specifically claimed antistatic agents are disclosed.” While the Office Action points to column 5, lines 30-33 and 37-40 of Azuma et al. and column 4, lines 20+, such passages (nor any other section of the cited references) do not disclose the use of N,N-bis(2-hydroxyethyl)dodecaneadmid or POE(2) C13-15 alkylamine.

Hayes

Applicants respectfully dispute the Examiner’s allegation that Hayes alone establishes a prima facie case of obviousness. Additionally, Applicants respectfully present that Hayes is lacking four features recited by the present claims:

1. The present claims recite a materials transfer apparatus comprising a bag, comprising a film having a thickness between 4 and 6 mils. In contrast, while Hayes may generally teach a film, there is neither a teaching nor a suggestion to form a bag from the film.
2. The present claims recite a metallocene catalyzed olefinic base resin. While Hayes may generally teach a number of olefinic base resins, there is neither a teaching nor a suggestion to utilize an olefin base resin which has been catalyzed using metallocene.

3. The present claims recite particular antistatic agents.
 - a Even if the exceedingly long "laundry list" of adine-based antistatic agents (included solely by incorporation by reference) may include the presently recited adine-based agent, there is certainly no suggestion to select this particular adine-based agent from the laundry list.
 - b This reference fails to contemplate the existence of a second antistatic agent. Thus, it cannot be said that this reference teaches or suggests to include any amine-based antistatic agent. Furthermore, as stated above, there is no reference in Hayes to the particularly recited amine-based agent.
4. While Hayes may generally disclose the use of diatomaceous earth as an antiblocking agent, there is no teaching or suggestion to provide such a material as a filler, in the amounts as presently recited and in addition, to provide two antistatic agents in the amounts presently recited..

Fukui et al.

While Fukui et al. may teach to form a food container with a film, the food container of Fukui et al. is quite distinct from the presently claimed bag. Specifically, the food container of Fukui et al. is described as a "thick-walled container". In contrast, the film of the present claims has a maximum thickness of 6 mils, i.e., .006 inches. This reference additionally fails to discuss or suggest using a metallocene-catalyzed resin nor at least the presently recited amine-based agent. Similar to Hayes, while Fukui et al. may generally disclose the use of diatomaceous earth as an antiblocking agent, there is no teaching or suggestion to provide such a material as a filler, in the amounts as presently recited, in addition to the antistatic agents defined by the claims. Thus, Fukui et al. cannot cure any of the deficiencies indicated above.

Azuma et al.

The Office Action cites Azuma et al. for its disclosure of "the specifically claimed antistatic agents" Even if Azuma et al. were to disclose using an amide-based antistatic agent in a range of from 0.1 to 0.5% by weight of said film or an amine-based antistatic agent in a range

of from 0.01 to 0.1% by weight of said film, there is no mention or suggestion to utilize N,N-bis(2-hydroxyethyl)dodecaneadamide or POE(2) C13-15 alkylamine. If in fact, this reference does identify either of these two antistatic agents, the Examiner is invited to identify wherein the reference such an identification is presented. Additionally, while this reference may disclose generally a polyethylene resin, such resin is not metallocene-catalyzed (see column 2, lines 3-50). Finally, there is no teaching nor suggestion to utilize the film of this reference in a bag, as presently claimed.

Moreover, the Office Action has failed to identify the requisite motivation to modify the teachings of Hayes to achieve the features of the present claims. For example, Hayes uses two slip or antiblocking agents, i.e., the organic amide and diatomaceous earth, to combat the problem of the film adhering to itself, while the present claims recite two antistatic agents (to prevent the buildup of an electrical charge) in addition to diatomaceous earth (as a filler). While the amide of Hayes may also function as an antistatic agent, the cited references do not provide one of ordinary skill in the art to augment the antiblocking agent of Hayes, i.e., the amide, with an amine-based antistatic agent. Even if the other cited references teach the general class of amine-based agents, at best, one of ordinary skill would be motivated to replace the existing antiblocking agents with the amine-based agent. Thus, the combination of two antistatic agents and an independent filler would not be achieved.

Furthermore, as identified above, the article of Fukui et al. is a thick-walled container, while the structure of Hayes are multilayer films, preferably having a thickness of 20 mils, hardly a "thick-walled" structure. At best, the three layers of film of Hayes forms a structure having a thickness of 0.06 inches, hardly a "thick-walled container". Therefore, Applicants respectfully submit that one of ordinary skill would not be motivated to modify the films of Hayes with the components presented in Fukui et al, as the resulting products are for different purposes.

Thus, Applicants respectfully present that as the cited references fail to disclose or suggest each feature recited by the present claims, no case of prima facie obviousness has been established.

In view of the foregoing remarks and analysis, Applicants respectfully submit that the present claims comply with all statutory requirements, and are presently in condition for

AMENDMENT

U.S. Appl. No. 09/500,460

Page 7

immediate allowance. Therefore, entry of the above amendments and passage of the application to allowance are respectfully requested.

If any issues remain which may best be resolved through a telephone communication, the Examiner is requested to telephone the undersigned at the local Washington, D.C. telephone number listed below.

TPP/EPR
Attorney Docket No.: TPP 30555

Respectfully submitted,

Thomas P. Pavelko
Registration No. 31,689

STEVENS, DAVIS, MILLER & MOSHER, L.L.P.
1615 L Street, N.W., Suite 850
Washington, D.C. 20036
Telephone: (202) 785-0100
Facsimile: (202) 408-5200 or (202) 408-5088

Date: March 17, 2003